

REMARKS

Claims 1-13 are pending in the application. The Applicants respectfully submit that this application and those applications relied upon in the Examiner's rejection were at the time of the invention and submission of the application either owned or under an obligation of assignment to the same entity. On January 16, 2002, U.S. Patent Application Serial Nos. 09/875,720 and 09/876, 547 were assigned to Linx, Inc. with the respective Reel/Frame number 012493/0451 and 01249/0597. Similarly, on January 16, 2002, this application was assigned to Linx, Inc. with a Reel/Serial Number 012493/0451. On June 7, 2004, Linx, Inc. and Micronus Semiconductor, Inc. merged. Furthermore, on August 5, 2004, Micronus Semiconductors, Inc. submitted a copy of the merger documents for recordation in these three. Although the new Reel/Frame numbers have not yet been assigned, please find attached a copy of the merger document recordation request and a return receipt that accompanied the new recordation filing. Therefore, as explained in further detail below, the Applicants respectfully traverse each ground of rejection and request reconsideration and further examination of the application. Applicants respond to each ground of rejection and objection as follows.

- A. **Claims 1-6 and 8-13 are allowable because Applicants intend to file Terminal Disclaimer in the event of an actual rejection under the judicially created doctrine of obviousness-type double patenting.**

The Applicants note the Examiner's provisional rejection of claim 1-6 and 8-13 under the judicially created doctrine of obviousness-type double patenting. Applicant also notes that the Examiner has not objected to claim 7 under the judicially created doctrine of obviousness-type double patenting. As previously discussed above, *supra*, current application and the cited U.S. Patent Application No. 09/876,547 are commonly owned by Micronus Semiconductors, Inc. and before August 5, 2004 by Linx, Inc. In the

event of an actual rejection under the judicially created doctrine of obviousness-type double patenting, the Applicants intend to file a Terminal Disclaimer. Thus, it is respectfully submitted that the objected to claims 1-6 and 8-13 are either allowable or may be allowable by the filing of a Terminal Disclaimer.

**B. Claims 1-13 are allowable because Xia et al. (PG-Pub No. 2002/0186762) is not available as a prior art reference.**

The Applicants note the Examiner's rejection under 35 U.S.C. §103(a) over Birru (PG-Pub No. 2002/0172275) in view of Xia et al. However, 35 U.S.C. § 103(c) provides that

subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

35 U.S.C § 103(c).

At the time of the invention, the inventions claimed in the present application and in Xia et al. were either owned or subject to an obligation of assignment to Linx, Incorporated. *Supra*. Therefore, under 35 U.S.C. §103(c), Xia et. al is not available to cite as prior art against the current application. In addition, in the event of a rejection in view of Birru, Applicants intend to file an affidavit or declaration swearing back of the Birru reference as provided for in 37 C.F.R. 1.131.

**Conclusion**

For the foregoing reasons, Applicants respectfully submits that the present application is in condition for allowance, and respectfully requests such action. Should it facilitate allowance of the application, the Examiner is invited to telephone the undersigned attorney.

No additional fees are believed to be necessary, however, should any fees be deemed required, the Commissioner is authorized to charge such fees to Deposit Account No. 23-3030, but is not to include payment of issue fees.

Respectfully submitted,

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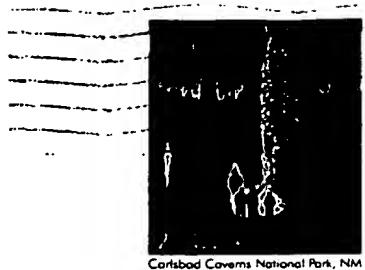
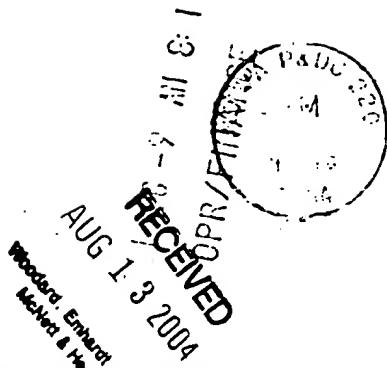
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